

### REMARKS

This amendment is submitted in response to the non-final Office Action mailed January 26, 2006. Following entry of this amendment, claims 47-59, 62-87 and 90-105 will be pending in the application. In the Office Action, the Examiner:

- objected to claims 65, 66, 93 and 94 as positively reciting a patient's tibia/femur as part of the invention;
- rejected pending claims 47-49, 55-57, 59, 62-64, 67-68, 70-77, 79, 84-85, 87, 90-92, 95-96 and 98-100 under 35 U.S.C. § 103(a) as obvious in view of U.S. Patent No. 5,190,544 to Chapman et al. ("Chapman") in combination with U.S. Patent No. 5,954,722 to Bono ("Bono");
- rejected pending claims 50 and 78 under 35 U.S.C. § 103(a) as obvious in view of Chapman in combination with both Bono and U.S. Patent No. 5,749,872 to Kyle et al. ("Kyle");
- rejected pending claims 51 and 80 under 35 U.S.C. § 103(a) as obvious in view of Chapman in combination with both Bono and U.S. Patent No. 5,601,553 to Trebing et al. ("Trebing");
- rejected pending claims 52-54, 69, 81-83 and 97 under 35 U.S.C. § 103(a) as obvious in view of Chapman in combination with both Bono and U.S. Patent No. 5,709,686 to Talos et al. ("Talos");
- rejected pending claims 58 and 86 under 35 U.S.C. § 103(a) as obvious in view of Chapman in combination with both Bono and U.S. Patent No. 5,674,222 to Berger et al. ("Berger"); and
- objected to claims 60-61 and 88-89 as being dependent on a rejected base claim, but otherwise allowable if rewritten in independent form.

Applicants have amended claims 47-48, 62-63, 65-66, 73-74, 76, 83, 91, and 93-94 to further define the invention recited, more clearly distinguish over the cited prior art, correct claim dependencies, and/or conform with amendments to other claims. Claims 60-61 and 88-89 have been canceled, and new claims 101-105 have been added. All amendments are fully supported by the originally-filed specification and/or drawings of the present

application. No new matter has been added. The claim amendments made herein do not represent acquiescence in the Examiner's rejections, but rather are made only to expedite prosecution of the present application and/or maintain consistency in claim language. Applicants expressly reserve the right to pursue the subject matter of any previously presented claims in one or more continuation applications. As discussed more fully below, Applicants respectfully submit that each of the currently pending claims define features that are not disclosed, taught or suggested by the prior art of record and respectfully request allowance of same.

#### **Claim Objections**

Claims 65-66 and 93-94 were objected to for positively reciting a patient's tibia/femur as part of the claimed invention. (Office Action at 2.) In response, applicants have amended claims 65-66 and 93-94 to remove any positive recitation of a patient's bone and respectfully request withdrawal of these claim objections.

#### **Allowable Subject Matter**

Applicants would like to thank the Examiner for the indication of allowable subject matter in dependent claims 60-61 and 88-89. (Office Action at 12.) Applicants have amended claim 47 to include the subject matter of claim 60, and have amended claim 73 to include the subject matter of claim 88. Since amended claims 47 and 73 are now in condition for allowance, applicants respectfully request that the obviousness rejections of these claims be withdrawn and that they, and each of their dependent claims 48-59, 62-72, 74-87 and 90-102, be allowed.

#### **New Claims**

Applicants have added new independent claim 103, along with its new dependent claims 104-105. Claim 103 incorporates the patentable subject matter of amended claim 73 and, therefore, applicants respectfully request allowance of new claim 103, and its dependent claims 104-105, for the same reasons that amended claim 73 is allowable.

In view of the above amendments and remarks, Applicants respectfully request that the Examiner reconsider pending claims 47-59, 62-87 and 90-105 with a view towards allowance. The Examiner is invited to call the undersigned attorney at (212) 326-

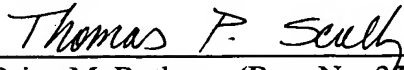
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3939 if a telephone call could help resolve any remaining issues.

A separate Fee Transmittal Sheet for additional claim fees is submitted herewith. Should any additional fees be required, please charge such fees to Jones Day deposit account no. 50-3013.

Respectfully submitted,

Date: April 26, 2006

  
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